

Fact Sheet: The Boehlert-Miller Substitute to H.R. 3824

The Boehlert-Miller substitute legislation is responsible reform of the Endangered Species Act (ESA) that balances our need to protect natural resources and native species without passing the burden on to landowners.

This legislation would:

- Protect private property owners by only using private land as a last resort to protect and preserve endangered species. The goal is to use federal land – like national parks, forests, and wildlife refuges – to protect these species and leave private landowners alone.
- Protect the rights and uses of private property by repealing the current "critical habitat" designation for endangered wildlife and replace it with binding recovery plans that will remove these species from the list as quickly as possible. This will put an end to the overwhelming number of lawsuits that landowners and developers face when trying to use and develop their own land.
- Solidify the federal government's responsibility to protect species and prevent more species from becoming threatened and endangered.
- Stop the use of capricious science and facts by creating a Science Advisory Board to peer-review controversial decisions and offer other assistance when necessary so that decisions are equitable and based on facts.
- Dedicate resources to create a technical assistance office to help landowners – particularly small landowners – work with the federal government to maximize the use of their land.
- Offer an incentive for landowners to establish conservation programs on their property becoming a partner in recovering endangered species and preventing others from joining that list.
- Build better federal-state cooperation on decisions to list species as threatened or endangered or make changes to such lists, as well as achieving better cooperation on creating and implementing recovery plans.

Conversely, the Pombo bill is too extreme because:

- It removes legally binding "critical habitat" protections and replaces it with "recovery plans," which may have similar designs but are not binding leaving no real plan to recover the species. If it's not legally binding there is no reason to follow the plan and protect these species.

- It attempts to gut the ESA by adding administrative hurdles and unreasonable timelines – impossible to conform with – allowing any and all development regardless of its impact on the environment and endangered species.
- An unscrupulous property owner could continually go to the government with proposed projects knowing they will be denied because they will harm endangered species and be paid at taxpayer expense for the “loss” once when they are denied. This amounts to paying people to conform to the law. This is simply an attempt to stop the government from protecting species due to the potential enormous cost.
- The bill would remove the provision protecting endangered species from pesticides. Pesticides played a major role in contributing to the decline of our nation’s symbol, the American bald eagle, in the mid-20th century and are currently implicated in the decline of an array of species including Pacific salmon and sea turtles. Under the Pombo bill, Fish & Wildlife would have no authority to limit the use of pesticides in protected areas for the first five years of the bill. After this five-year period, the bill only requires “consultation” between the EPA and Fish & Wildlife.